

**BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA**

INQUIRY CONCERNING
A JUDGE
NO. 00-143

Supreme Court Case No.: SC00-2226

MOTION FOR PROTECTIVE ORDER

Respondent, Judge Cynthia A. Holloway, by and through her undersigned counsel, moves for entry of a protective order with regard to her deposition unilaterally scheduled for September 14, 2001. In support of her motion, the Respondent says as follows:

1. The Respondent's deposition was unilaterally set by opposing counsel on September 14, 2001. Attached hereto as Exhibit "A" is a copy of the Notice of Taking Deposition.

2. As is reflected in the Notice, opposing counsel seeks to take the deposition of Judge Holloway relative to an incident in Judge Essrig's chambers which occurred on or about July 29, 1999 and a tree incident which occurred on or about July 10, 1999.

3. Judge Holloway has already been deposed in this matter. Specifically, her deposition was taken for approximately 5 hours on May 8, 2001.

4. On May 8, 2001, opposing counsel had more than ample opportunity to ask about the tree incident. In fact, on page 149 of the aforementioned deposition, opposing counsel states that she does “not intend on asking Judge Holloway any questions regarding that.” This is a specific reference to the tree incident involving Jeanne Tate.

5. With regard to the incident involving Judge Essrig that occurred on or about July 29, 1999, JQC counsel represented the purpose of that inquiry was to ascertain if Judge Holloway had misrepresented her position in statements made at the initial 6B hearing (see page 147 of Judge Holloway’s deposition of May 8, 2001).

6. The critical significance is whether this incident occurred before or after the 6B hearing in October of 2000. At the time, inquiry was made of JQC’s counsel with regard to the contact between Judge Holloway and Judge Essrig (see page 149 of Judge Holloway’s deposition, line 20-22).

7. In response, counsel for the JQC affirmatively represented that she did not know the date and did not have the papers with her (pages 149 and 150).

8. Unbeknownst to Judge Holloway’s counsel at the time of the aforementioned deposition, not only had special counsel for the JQC interviewed Judge Essrig but an investigator for the JQC had taken a statement from Judge Essrig.

Therefore, it was well known to counsel for the JQC that the contact between Judge Essrig and Judge Holloway had occurred prior to the 6B hearing in October of 2000.

9. The inescapable conclusion to be drawn from this is that the representations of counsel for the JQC were ruse and otherwise an attempt to mislead Judge Holloway and her counsel so as to pursue inquiry of the purported incident involving Judge Essrig.

10. Since the purported purpose of this inquiry was to impeach Judge Holloway's testimony at the October, 2000 6B proceeding, counsel for the JQC should have known and admitted on the record that the contact occurred prior to the 6B hearing. As stated on page 150 of Judge Holloway's deposition, if the contact happened prior to the 6B hearing, its "clearly not relevant to her promise" and as such, cannot be a basis for impeachment.

11. As a result of the misrepresentation by JQC's counsel, further questioning of Judge Holloway should be precluded.

WHEREFORE, the Respondent, Judge Cynthia A. Holloway, by and through her undersigned attorney, respectfully requests that her Motion for Protective Order be granted and that the JQC be precluded from further deposing her.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been
furnished by U. S. Mail to:

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this _____ day of September, 2001.

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